

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED

SEP 22 2008

CLERK, U.S. DISTRICT COURT

No. 3-07-CV-0339-Deputy

BILLY JOHN ROBERSON, §
Petitioner, §
vs. §
NATHANIEL QUARTERMAN, Director §
Texas Department of Criminal Justice §
Correctional Institutions Division §
Respondent. §

ORDER OF THE COURT ON THE FOREGOING RECOMMENDATION

Considering the record in this case and the above recommendation, and pursuant to Federal Rule of Appellate Procedure 22(b) and 28 U.S.C. § 2253 (c), the Court hereby finds and orders:

IFP STATUS:

- (X) the party appealing is GRANTED *in forma pauperis* status on appeal.
() the party appealing is proceeding *in forma pauperis*.
() the party appealing is DENIED *in forma pauperis* status on appeal
for the following reasons:

() the Court certifies, pursuant to Fed. R. App. P. 24(a) and 28 U.S.C. § 1915 (a)(3), that
the appeal is not taken in good faith. In support of this finding, the Court adopts and
incorporates by reference the Magistrate Judge's Findings and Recommendation entered
in this case on November 2, 2006. Based upon the Magistrate Judge's findings, this
Court finds that the appeal presents no legal points of arguable merit and is therefore
frivolous. *See Harkins v. Roberts*, 935 F. Supp. 871, 873 (S. D. Miss. 1996) (citing
Howard v. King, 707 F. 2d 215, 219-20 (5th Cir. 1983)).
() the person appealing is not a pauper;
() the person appealing has not complied with the requirements of Rule 24 of the Federal
Rules of Appellate Procedure and /or 28 U.S.C. § 1915(a)(1) as ordered by the Court.
(See Notice of Deficiency and Order entered on _____).

COA:

- () a Certificate of Appealability is GRANTED on the following issues: _____

(X) a Certificate of Appealability is DENIED. The Court hereby adopts and incorporates by
reference the Magistrate Judge's Findings and Recommendation filed in this case on September
18, 2007, in support of its finding that Petitioner has failed to make a substantial showing of the
denial of a federal constitutional right. *See Slack v. McDaniel*, 529 U.S. 473, 480-81, 120 S. Ct.
1595, 1602, 146 L.Ed.2d 542 (2000).

SIGNED this 22 day of Sept., 2008.

UNITED STATES DISTRICT JUDGE